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U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CHARLES CRAZE,)	CASE NO. 1:01 CV 1553
)	
Plaintiff,)	JUDGE O'MALLEY
)	
v.)	ANSWER OF DAVID GIBBS, JR.
)	
DAVID GIBBS, JR., <i>et al.</i> ,)	
)	
Defendants.)	

Defendant David Gibbs, Jr. ("Gibbs"), for his answer to the Complaint of Plaintiff Charles Craze ("Craze"), states and avers as follows:

1. Gibbs denies the allegations contained in paragraph 1 of the Complaint.
2. Gibbs denies the allegations contained in paragraph 2 of the Complaint.
3. Gibbs denies the allegations contained in paragraph 3 of the Complaint.
4. Gibbs denies the allegations contained in paragraph 4 of the Complaint.
5. Gibbs denies the allegations contained in paragraph 5 of the Complaint.
6. Gibbs denies the allegations contained in paragraph 6 of the Complaint.

First Affirmative Defense

7. The Complaint should be dismissed for failure to state a claim upon which relief may be granted in that Exhibit B to the Complaint establishes that material terms of the purported agreement between the parties remained open to negotiation and agreement.

Second Affirmative Defense


8. Craze's claim is barred pursuant to the doctrines of waiver and estoppel in that Craze proposed and sought to negotiate an agreement with Gibbs after March 1, 2001, that was materially different from the agreement alleged in the Complaint.

WHEREFORE, Gibbs prays that the Complaint be dismissed, that judgment be entered in favor of Gibbs and against Craze, and that Gibbs be awarded his costs and attorney's fees herein.

Respectfully submitted,

OF COUNSEL:

BENESCH, FRIEDLANDER,
COPLAN & ARONOFF LLP

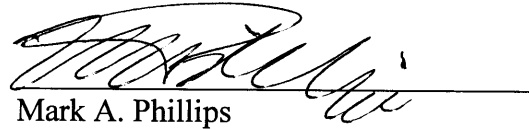


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Attorneys for David Gibbs, Jr.

CERTIFICATE OF SERVICE

A copy of the foregoing was sent by regular U.S. mail, postage prepaid, this 5th day of July, 2001, to Jason C. Blackford, Weston Hurd Fallon Paisley & Howley, LLP, 2500 Terminal Tower, 50 Public Square, Cleveland, Ohio 44113-2241, and to Kevin M. Young, Brzytwa, Quick & McCrystal, LLC, 900 Skylight Office Tower, 1600 West 2nd Street, Cleveland, Ohio 44113-1411.


Mark A. Phillips